IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

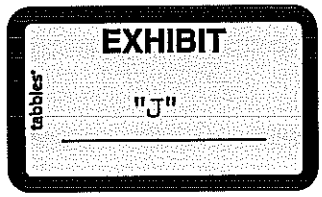
STATE OF OKLAHOMA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 4:05-CV-00329-TCK-SAJ
	)	
TYSON FOODS, INC., et al.,	)	
	)	
Defendants.	)	

SUPPLEMENTAL OBJECTIONS AND RESPONSES TO CARGILL, INC'S FIRST SET OF INTERROGATORIES

COMES NOW, the Plaintiff, the State of Oklahoma, ex rel. W.A. Drew Edmondson, in his capacity as Attorney General of the State of Oklahoma, and Oklahoma Secretary of the Environment, C. Miles Tolbert, in his capacity as the Trustee for Natural Resources for the State of Oklahoma under CERCLA, (hereinafter "the State") and hereby supplements its response to Separate Defendant Cargill, Inc.'s First Set of Interrogatories pursuant to the Court's May 17, 2007 Order (Dkt # 1150)

GENERAL OBJECTIONS

The State fully incorporates its previous general objections to these Interrogatories as if fully stated herein.



INTERROGATORY NO. 2: Separately for each Cargill entity at issue, state with particularity the factual and legal basis for the allegation contained in ¶¶ 13-14 of Your Amended Complaint that "[any Cargill entity]...is responsible for the poultry waste created by poultry growing operations, its handling and storage, and its disposal on lands within the IRW and the resultant injury to the biota, lands, waters and sediments therein" and identify every witness upon whom You will rely to establish fact.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO.2:

The State incorporates its previous response and objections to this Interrogatory as if fully stated herein. The State hereby withdraws its previous Rule 33(d) designation for this Interrogatory. The State will supplement this Interrogatory as additional responsive information is identified, except the State will disclose information known or opinions held by expert consultants retained or employed in anticipation of litigation or preparation for trial upon which it intends to rely pursuant to the Court's Scheduling Order (Dkt. #1075). The State and its experts are still collecting data and performing analysis on the data which will be used in their opinions and reports and the State reserves the rights to supplement its response.

In lieu of its previous Fed.R.Civ.P.33(d) designation for this Interrogatory, the State has identified certain representative documents as set forth below:

Al-Qinna, M. I. (2003), Measuring and Modeling Soil Water and Solute Transport with Emphasis on Physical Mechanisms in Karst Topography. Ph.D., United States -- Arkansas University of Arkansas 272 p. **(see pages 1, 5-8, 39-42, 61-63, 107, 198-200).**

Arai, Y., Lanzirotti, A., Sutton, S., Davis, J. A., and Sparks, D. L. (2003), Arsenic Speciation and Reactivity in Poultry Litter. *Environmental Science and Technology* 37(18): 4083-90. **(see pages 4083, 4089).**

Avery, L. M., Killham, K., and Jones, D. L. (2005), Survival of E. Coli O157:H7 in Organic Wastes Destined for Land Application. *Journal of Applied Microbiology* 98(4): 814-22. **(see pages 814-815, 820-821).**

Bellows, B. C. (2005), Arsenic in Poultry Litter: Organic Regulations. A Publication of ATTRA, the National Sustainable Agriculture Information Service 12 p. **(see pages 1-8).**

Bitton, G. and Gerba, C. P. (1994), *Groundwater Pollution Microbiology*. Krieger Pub. Co. 377 p. **(see pages vii, 50-51, 199-203).**

Coyne, M. S. and Blevins, R. L. (1995), Fecal Bacteria in Surface Runoff from Poultry-Manured Fields. *Animal Waste and the Land-Water Interface*. Boca Raton, Lewis Publishers: 77-87. **(see pages 77, 80, 82, 85-86).**

Crane, S R, Westerman, P W, and Overcash, M R. (1980) Dieoff of Fecal Indicator Organisms Following Land Application of Poultry Manure. *Journal of Environmental Quality* **9**: 531-537. **(see pages 531, 537).**

Davis, J. V. and Bell, R.W. (1998), Water-Quality Assessment of the Ozark Plateaus Study Unit, Arkansas, Kansas, Missouri, and Oklahoma; Nutrients, Bacteria, Organic Carbon, and Suspended Sediment in Surface Water, 1993-95. United States Geological Survey 98-4164. 63 p. **(see pages 1, 5, 7, 10, 19, 37-38).**

Davis, R. K., Brahana, J. V., and Johnston, J. S. (2000), Ground Water in Northwest Arkansas:

Minimizing Nutrient Contamination from Non-Point Sources in Karst Terrain. Arkansas Water

Resources Center MSC- 288. 69 p. **(see pages 1-3, 8, 19-21, 43-44).**

Davis, R. K., Hamilton, S., and Van Brahana, J. (2005), Escherichia Coli Survival in Mantled Karst Springs and Streams, Northwest Arkansas Ozarks, U.S.A. *Journal of the American Water Resources Association* **41**(6): 1279-1287 **(see pages 1279-1280, 1284-1286).**

Edwards, D. R. and Daniel, T. C. (1994), A Comparison of Runoff Quality Effects of Organic and Inorganic Fertilizers Applied to Fescuegrass Plots. *Water resources bulletin* **30**(1): 35-41. **(see pages 35, 40).**

Finlay-Moore, O., Hartel, P. G., and Cabrera, M.L. (2000), 17 Beta-Estradiol and Testosterone in Soil and Runoff from Grasslands Amended with Broiler Litter. *Journal of environmental quality* **29**(5): 1604-1611. **(see pages 1604, 1608-1610).**

Garbarino, J. R., Wershaw, R. L., Bednar, A. J., Rutherford, D.W., and Beyer, R. S. (2003), Environmental Fate of Roxarsone in Poultry Litter. I. Degradation of Roxarsone During Composting. *Environmental Science and Technology* **37**(8): 1509-1514. **(see pages 1515, 1520).**

Loehr, R. C. (1978), Hazardous Solid Waste from Agriculture. *Environmental Health Perspectives* **27**: 261-273. **(see pages 261-262, 265, 267-269).**

Mawdsley, J. L., Bardgett, R. D., Merry, R. J., Pain, B. F., and Theodorou, M. K. (1995), Pathogens in Livestock Waste, Their Potential for Movement through Soil and Environmental Pollution. *Applied Soil Ecology : a Section of Agriculture, Ecosystems & Environment* 2(1): 1-15. **(see pages 1-12).**

Peterson, E. W., Davis, R. K., and Orndorff, H.A. (2000), 17 Beta-Estradiol as an Indicator of Animal Waste Contamination in Mantled Karst Aquifers. *Journal of environmental quality* 29(3): 826-834. **(see pages 826-827, 829-833).**

Schumacher, J. G. (2003), Survival, Transport, and Sources of Fecal Bacteria in Streams and Survival in Land-Applied Poultry Litter in the Upper Shoal Creek Basin, Southwestern Missouri, 2001-2002. U.S. Geological Survey 03-4243. 45 p. **(see pages 1-2, 5, 32-38).**

Sobsey, M. D., Khatib, L.A., Hill, V. R., Atocilja, E., and Pillai, S. (2006), Pathogens in Animal Wastes and the Impacts of Waste Management Practices on Their Survival, Transport, and Fate. In *Animal Agriculture and the Environment: National Center for Manure and Animal Waste Management White Papers* (ed. J. M. Rice, D. F. Caldwell, and F. J. Humenik), American Society of Agricultural and Biological Engineers, 609-666 p. **(see pages 609-651).**

Stolz, J. F., Perera, E., Kilonzo, B., Kail, B., Crable, B., Fisher, E., Ranganathan, M., Wormer, L., and Basu, P. (2007), Biotransformation of 3-Nitro-4-Hydroxybenzene Arsonic Acid (Roxarsone) and Release of Inorganic Arsenic by Clostridium Species. *Environ. Sci. Technol.* 41(3): 818-823. **(see pages 818, 820-822).**

Wicks, C., Kelley, C., and Peterson, E. (2004), Estrogen in a Karstic Aquifer. *Ground Water* 42(3): 384-389. **(see pages 384, 388).**

Oklahoma Water Resources Board, U.S. Army Corps of Engineers and Oklahoma State University. 1996. Diagnostic and Feasibility Study on Tenkiller Lake, Oklahoma. Sponsored by USEPA. Available at http://www.owrb.ok.gov/studies/reports/reports.php.

Green, W. R., and B. E. Haggard. 2001. Phosphorus and nitrogen concentrations and loads at Illinois River south of Siloam Springs, Arkansas, 1997–1999. U.S. Geological Survey Water Resources Investigation Report 01–4217.

Report: OCC TASK #78 - FY 1996 319(h) TASK #210 - Output #3 ESTIMATING WATERSHED LEVEL NONPOINT SOURCE LOADING FOR THE STATE OF OKLAHOMA (OSU).

Report: USGS Prepared in Cooperation with the Arkansas Soil and Water Conservation Commission – Phosphorus and Nitrogen Concentrations and Loads at Illinois River South of Siloam Springs, Arkansas, 1997 – 1999 OSRC 2-10.

Report: USGS National Water-Quality Assessment Program – Water-Quality Assessment of the Ozark Plateaus Study Unit, Arkansas, Kansas, Missouri, and Oklahoma – Nutrients, Bacteria, Organic Carbon, and Suspended Sediment in Surface Water, 1993-95 OSRC 2-11.

Report: USGS Preliminary Analysis of Phosphorus Concentrations and Fecal-Indicator Bacteria Counts at Selected Sites in the Illinois River Basin in Oklahoma, 1997-2001 OSRC 2-13.

Report: Basin-Wide Pollution Inventory for the Illinois River Comprehensive Basin Management Program – Final Report- Daniel Storm 8/96 OSRC 3-1.

Report: Recent Total Phosphorus Loads in the Illinois River in Arkansas compared to loads in 1980-1993 – by Martin Maner P.E. ADEQ 2/8/2000 OSRC 7-2B.

Report: An Investigation of the Sources and Transport of Nonpoint Source Nutrients in the Illinois River Basin in Oklahoma and Arkansas (Gade 1998) http://storm.okstate.edu/.

Report: Comprehensive Basin Management Plan for the Illinois River Basin in Oklahoma, OCC, May, 1999 available at http://www.okcc.state.ok.us/WQ/WQ_reports/REPORT085.pdf.

Coordinated Watershed Restoration and Protection Strategy for Oklahoma's Impaired Scenic Rivers (SB 972 Report), issued in 2003, 2004, 2005, and 2006. Full text of reports are located at http://www.ose.state.ok.us/documents.html#972.

Phosphorus Concentrations, Loads and Yields in the Illinois River Basin, Arkansas and Oklahoma, 1997-2001, p. 1, (http://pubs.usgs.gov/wri/wri034168/).

Phosphorus Concentrations, Loads and Yields in the Illinois River Basin, Arkansas and Oklahoma, 2000-2004, (http://pubs.usgs.gov/sir/2006/5175/).

Watershed Restoration Action Strategy (WRAS) for the Illinois River/Barron Fork Watersheds, July 1, 1999,
https://www.deq.state.ok.us/WQDnew/pubs/illinois_river_wras_final.pdf

INTERROGATORY NO. 3: Separately for each Cargill entity at issue, state with particularity the factual and legal basis for the allegation contained in ¶ 31 of Your Amended Complaint that "[any Cargill entity], by virtue of [its] improper poultry waste disposal practices, [is] responsible for this pollution of, as well as the degradation of, impairment of and injury to the IRW, including the biota, lands, waters and sediments therein" and identify every witness upon whom You will rely to establish each fact.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO.3:

The State incorporates its previous response and objections to this Interrogatory as if fully stated herein and incorporates its Supplemental Response to Interrogatory No. 2 above. The State hereby withdraws its previous Rule 33(d) designation for this Interrogatory. The State will supplement this Interrogatory as additional responsive information is identified, except the State will disclose information known or opinions held by expert consultants retained or employed in anticipation of litigation or preparation for trial upon which it intends to rely pursuant to the Court's Scheduling Order (Dkt. #1075). The State and its experts are still collecting data and performing analysis on the data which will be used in their opinions and reports and the State reserves the rights to supplement its response.

INTERROGATORY NO. 4: Separately for each Cargill entity at issue, state with particularity the factual and legal basis for the allegation contained in ¶ 44 of Your Amended Complaint that any Cargill entity "[knew] and had any reason to know that in the ordinary course of the poultry growers raising birds in the usual and prescribed manner poultry waste will be handled and disposed of in such a manner to cause injury to the IRW, including the biota, lands, waters and sediments therein..." and identify every witness upon whom You will rely to establish each fact.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO.4:

The State incorporates its previous response and objections to this Interrogatory as if fully stated herein. The State hereby withdraws its previous Rule 33(d) designation for this Interrogatory. The State will supplement this Interrogatory as additional responsive information is identified, except the State will disclose information known or opinions held by expert consultants retained or employed in anticipation of litigation or preparation for trial upon which

it intends to rely pursuant to the Court's Scheduling Order (Dkt. #1075). The State and its experts are still collecting data and performing analysis on the data which will be used in their opinions and reports and the State reserves the rights to supplement its response.

In lieu of its previous Fed.R.Civ.P.33(d) designation for this Interrogatory, the State has identified certain representative documents as set forth below:

Al-Qinna, M. I. (2003), Measuring and Modeling Soil Water and Solute Transport with Emphasis on Physical Mechanisms in Karst Topography. Ph.D., United States -- Arkansas University of Arkansas 272 p. **(see pages 1, 5-8, 39-42, 61-63, 107, 198-200).**

Arai, Y., Lanzirotti, A., Sutton, S., Davis, J. A., and Sparks, D. L. (2003), Arsenic Speciation and Reactivity in Poultry Litter. *Environmental Science and Technology* **37**(18): 4083-90. **(see pages 4083, 4089).**

Avery, L. M., Killham, K., and Jones, D. L. (2005), Survival of E. Coli O157:H7 in Organic Wastes Destined for Land Application. *Journal of Applied Microbiology* **98**(4): 814-22. **(see pages 814-815, 820-821).**

Bellows, B. C. (2005), Arsenic in Poultry Litter: Organic Regulations. A Publication of ATTRA, the National Sustainable Agriculture Information Service 12 p. **(see pages 1-8).**

Bitton, G. and Gerba, C. P. (1994), *Groundwater Pollution Microbiology*. Krieger Pub. Co. 377 p. **(see pages vii, 50-51, 199-203).**

Coyne, M. S. and Blevins, R. L. (1995), Fecal Bacteria in Surface Runoff from Poultry-Manured Fields. *Animal Waste and the Land-Water Interface*. Boca Raton, Lewis Publishers: 77-87. **(see pages 77, 80, 82, 85-86).**

Crane, S R, Westerman, P W, and Overcash, M R. (1980) Dieoff of Fecal Indicator Organisms Following Land Application of Poultry Manure. *Journal of Environmental Quality* **9**: 531-537. **(see pages 531, 537).**

Davis, J. V. and Bell, R.W. (1998), Water-Quality Assessment of the Ozark Plateaus Study Unit, Arkansas, Kansas, Missouri, and Oklahoma; Nutrients, Bacteria, Organic Carbon, and Suspended Sediment in Surface Water, 1993-95. United States Geological Survey 98-4164. 63 p. **(see pages 1, 5, 7, 10, 19, 37-38).**

Davis, R. K., Brahana, J. V., and Johnston, J. S. (2000), Ground Water in Northwest Arkansas: Minimizing Nutrient Contamination from Non-Point Sources in Karst Terrain. Arkansas Water Resources Center MSC- 288. 69 p. **(see pages 1-3, 8, 19-21, 43-44).**

Davis, R. K., Hamilton, S., and Van Brahana, J. (2005), Escherichia Coli Survival in Mantled Karst Springs and Streams, Northwest Arkansas Ozarks, U.S.A. *Journal of the American Water Resources Association* 41(6): 1279-1287 **(see pages 1279-1280, 1284-1286).**

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Finlay-Moore, O., Hartel, P. G., and Cabrera, M.L. (2000), 17 Beta-Estradiol and Testosterone in Soil and Runoff from Grasslands Amended with Broiler Litter. *Journal of environmental quality* 29(5): 1604-1611. **(see pages 1604, 1608-1610).**

Garbarino, J. R., Wershaw, R. L., Bednar, A. J., Rutherford, D.W., and Beyer, R. S. (2003), Environmental Fate of Roxarsone in Poultry Litter. I. Degradation of Roxarsone During Composting. *Environmental Science and Technology* 37(8): 1509-1514. **(see pages 1515, 1520).**

Loehr, R. C. (1978), Hazardous Solid Waste from Agriculture. *Environmental Health Perspectives* 27: 261-273. **(see pages 261-262, 265, 267-269).**

Mawdsley, J. L., Bardgett, R. D., Merry, R. J., Pain, B. F., and Theodorou, M. K. (1995), Pathogens in Livestock Waste, Their Potential for Movement through Soil and Environmental Pollution. *Applied Soil Ecology : a Section of Agriculture, Ecosystems & Environment* 2(1): 1-15. **(see pages 1-12).**

Peterson, E. W., Davis, R. K., and Orndorff, H.A. (2000), 17 Beta-Estradiol as an Indicator of Animal Waste Contamination in Mantled Karst Aquifers. *Journal of environmental quality* 29(3): 826-834. **(see pages 826-827, 829-833).**

Schumacher, J. G. (2003), Survival, Transport, and Sources of Fecal Bacteria in Streams and Survival in Land-Applied Poultry Litter in the Upper Shoal Creek Basin, Southwestern Missouri, 2001-2002. U.S. Geological Survey 03-4243. 45 p. **(see pages 1-2, 5, 32-38).**

Sobsey, M. D., Khatib, L.A., Hill, V. R., Atocilja, E., and Pillai, S. (2006), Pathogens in Animal Wastes and the Impacts of Waste Management Practices on Their Survival, Transport, and Fate. In *Animal Agriculture and the Environment: National Center for Manure and Animal Waste Management White Papers* (ed. J. M. Rice, D. F. Caldwell, and F. J. Humenik), American Society of Agricultural and Biological Engineers, 609-666 p. **(see pages 609-651).**

Stolz, J. F., Perera, E., Kilonzo, B., Kail, B., Crable, B., Fisher, E., Ranganathan, M., Wormer, L., and Basu, P. (2007), Biotransformation of 3-Nitro-4-Hydroxybenzene Arsonic Acid (Roxarsone) and Release of Inorganic Arsenic by Clostridium Species. *Environ. Sci. Technol.* 41(3): 818-823. **(see pages 818, 820-822).**

Wicks, C., Kelley, C., and Peterson, E. (2004), Estrogen in a Karstic Aquifer. *Ground Water* 42(3): 384-389. **(see pages 384, 388).**

Oklahoma Water Resources Board, U.S. Army Corps of Engineers and Oklahoma State University. 1996. Diagnostic and Feasibility Study on Tenkiller Lake, Oklahoma. Sponsored by USEPA. Available at http://www.owrb.ok.gov/studies/reports/reports.php.

Green, W. R., and B. E. Haggard. 2001. Phosphorus and nitrogen concentrations and loads at Illinois River south of Siloam Springs, Arkansas, 1997–1999. U.S. Geological Survey Water Resources Investigation Report 01–4217.

Report: OCC TASK #78 - FY 1996 319(h) TASK #210 - Output #3 ESTIMATING WATERSHED LEVEL NONPOINT SOURCE LOADING FOR THE STATE OF OKLAHOMA (OSU).

Report: USGS Prepared in Cooperation with the Arkansas Soil and Water Conservation Commission – Phosphorus and Nitrogen Concentrations and Loads at Illinois River South of Siloam Springs, Arkansas, 1997 – 1999 OSRC 2-10.

Report: USGS National Water-Quality Assessment Program – Water-Quality Assessment of the Ozark Plateaus Study Unit, Arkansas, Kansas, Missouri, and Oklahoma – Nutrients, Bacteria, Organic Carbon, and Suspended Sediment in Surface Water, 1993-95 OSRC 2-11.

Report: USGS Preliminary Analysis of Phosphorus Concentrations and Fecal-Indicator Bacteria Counts at Selected Sites in the Illinois River Basin in Oklahoma, 1997-2001 OSRC 2-13.

Report: Basin-Wide Pollution Inventory for the Illinois River Comprehensive Basin Management Program – Final Report- Daniel Storm 8/96 OSRC 3-1.

Report: Recent Total Phosphorus Loads in the Illinois River in Arkansas compared to loads in 1980-1993 – by Martin Maner P.E. ADEQ 2/8/2000 OSRC 7-2B.

Report: An Investigation of the Sources and Transport of Nonpoint Source Nutrients in the Illinois River Basin in Oklahoma and Arkansas (Gade 1998) http://storm.okstate.edu/.

Report: Comprehensive Basin Management Plan for the Illinois River Basin in Oklahoma, OCC, May, 1999 available at http://www.okcc.state.ok.us/WQ/WQ_reports/REPORT085.pdf.

Coordinated Watershed Restoration and Protection Strategy for Oklahoma's Impaired Scenic Rivers (SB 972 Report), issued in 2003, 2004, 2005, and 2006. Full text of reports are located at http://www.ose.state.ok.us/documents.html#972.

Phosphorus Concentrations, Loads and Yields in the Illinois River Basin, Arkansas and Oklahoma, 1997-2001, p. 1, (http://pubs.usgs.gov/wri/wri034168/).

Phosphorus Concentrations, Loads and Yields in the Illinois River Basin, Arkansas and Oklahoma, 2000-2004, (http://pubs.usgs.gov/sir/2006/5175/).

Watershed Restoration Action Strategy (WRAS) for the Illinois River/Barron Fork Watersheds, July 1, 1999, https://www.deq.state.ok.us/WQDnew/pubs/illinois_river_wras_final.pdf

INTERROGATORY NO. 6: Separately for each Cargill entity at issue, state completely and in detail the facts upon which you base the allegations in Your Amended Complaint at ¶ 50 that any Cargill entity "has long known that the application of poultry waste to lands within the IRW, in the amounts that it is applied, is in excess of any agronomics need and is not consistent with good agricultural practices and, as such, constitutes waste disposal rather than any normal or appropriate application of fertilizer" and identify every witness upon whom You will rely to establish each fact.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO.6:

The State incorporates its previous response and objections to this Interrogatory as if fully stated herein. The State hereby withdraws its previous Rule 33(d) designation for this Interrogatory. The State will supplement this Interrogatory as responsive information is identified, except the State will disclose information known or opinions held by expert consultants retained or employed in anticipation of litigation or preparation for trial upon which it intends to rely pursuant to the Court's Scheduling Order (Dkt. #1075). The State and its experts are still collecting data and performing analysis on the data which will be used in their opinions and reports and the State reserves the rights to supplement its response. Pursuant to Rule 33(d), the following list of documents are representative of documents responsive to this request:

Managing Phosphorus from Animal Manure, OSU PSS-2249 Fact Sheet found at http://pods.dasnr.okstate.edu/docushare/dsweb/Get/Document-2641/F-2249web.pdf

Coordinated Watershed Restoration and Protection Strategy for Oklahoma's Impaired Scenic Rivers (SB 972 Report), issued in 2003, 2004, 2005, and 2006. Full text of reports are located at http://www.ose.state.ok.us/documents.html#972.

An Investigation of the Sources and Transport of Nonpoint Source Nutrients in the Illinois River Basin in Oklahoma and Arkansas (Gade 1998) located at http://storm.okstate.edu/.

Report: Basin-Wide Pollution Inventory for the Illinois River Comprehensive Basin Management Program – Final Report- Daniel Storm 8/96 OSRC 3-1.

Watershed Restoration Action Strategy (WRAS) for the Illinois River/Barron Fork Watersheds, July 1, 1999, https://www.deq.state.ok.us/WQDnew/pubs/illinois_river_wras_final.pdf

INTERROGATORY NO. 9: Separately for each Cargill entity at issue, state with particularity the factual and legal basis for the allegation in ¶ 56 of Your Amended Complaint that any Cargill entity's "poultry waste disposal practices are not, and have not been, undertaken in conformity with federal and state laws and regulations" and identify every witness upon whom You will rely to establish each fact.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9:

The State incorporates its previous general and specific objections and responses, and further objects to this Interrogatory to the extent it seeks information protected by the attorney client-privilege or work product protection. Further, the State objects to this Interrogatory to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B).

The actions of the Cargill Defendants and entities for which they are legally responsible violate CERCLA, the Solid Waste Disposal Act (SWDA), and the following provisions of the Oklahoma Registered Poultry Feeding Operations Act and its implementing regulations: 2 O.S.§§ 10-9.1 and 10-9.7; and OAC 35:17-5-1 and 35:17-5-5. Cargill Defendants and entities for which they are legally responsible violate the following provision of the Oklahoma Agricultural Code: 2 O.S. § 2-18.1. Further, Cargill Defendants and entities for which they are

legally responsible violate the following provision of the Oklahoma Environmental Quality Act: 27A O.S. § 2-6-105, as well as State and Federal common law. In addition, the actions of the Cargill Defendant and entities for which they are legally responsible violate the following provisions of the OAC: 785:45-1-2, 785:45-3-2, 785:45-1-1, 785:45-5-10, 785:45-5-19, 785:45-5-12, 785:45-7-1, 785:45-7-2, 785:45-7-3, 785:45-5-9, 785:45-5-16, and 785:45-5-25.

The State intends to demonstrate violations of these statutes and regulations through expert testimony that is based on (1) published treatises and peer reviewed articles on relevant and applicable subjects (discussed below), and (2) the evaluation of sampling and analysis data collected by the State and its consultants. The State will call expert witnesses at trial who will demonstrate that land application of the Defendant's wastes (i.e., the wastes of its growing operations and that of its contract growers) within the IRW releases contaminants contained in these wastes into the environment and rainfall: (1) washes off the constituents of these wastes and the land applied soils and they together run off of the area that was land applied and flow into IRW surface waters, and (2) discharge, seep and leach from the land applied soils into ground waters that flow into IRW surface waters. In particular, the State will demonstrate violations by:

(A) Showing that the soils and Karst geology that make up the IRW are particularly susceptible to surface water runoff and seepage and leaching into the groundwater. Additionally, the hydrogeological connection between and among the land surface, the ground waters and the surface waters within the IRW will demonstrate the "pathway" to and through surface and ground water that runs into the streams and rivers of the IRW and eventually into Lake Tenkiller;

(B) Showing that a chemical "finger print" is found all along this water pathway (from waste application sites to Lake Tenkiller) by analysis and comparison of the chemical attributes of the Defendants' waste, the soils on which those wastes are applied, the groundwater, and surface waters leaving land applied locations, the water and sediments of the streams and rivers that collect runoff and ground waters, and the sediments of Lake Tenkiller;

(C) Conducting Lake Tenkiller core analysis and comparing with (i) other lakes and (ii) poultry and waste growth and production;

(D) Analyzing historical poultry waste contaminant concentration trends in the IRW surface waters (including Lake Tenkiller) and comparing with poultry production and waste volume in the IRW;

(E) Demonstrating poultry waste indicator chemicals and substances at locations that are co-incident with locations within the IRW that experience injury for which the State seeks damages and injunctive relief;

(F) Demonstrating that the density of poultry operations directly influences the concentrations of phosphorous in IRW streams and rivers and that the contributions of phosphorous from land application of poultry waste causes the injuries to IRW water quality and biota for which the State seeks damages and injunctive relief;

(G) Showing that poultry waste is the major contributor of nutrients in the IRW using a nutrient mass balance analysis;

(H) Showing that poultry waste is a major contributor of pollutants in the IRW by circumstantial evidence.

The State and its experts are still collecting data and performing analysis on the data which will be used in their opinions and reports. The State has produced documents addressed by the Court's January 5, 2007 Order associated with the State's sampling scheme with the February 1, 3, and 8, 2007 document productions and will continue these productions on a rolling basis. The expert opinions and reports that will show these violations are still being completed and will be provided to the Defendants in accordance with the Court's Scheduling Order (Dkt. #1075).

The State has not yet determined which witness or witnesses it will use to prove these facts. To the extent that the State will prove that the Cargill Defendants have violated these statutes and regulations through other direct evidence, it will supplement its response to disclose that other direct evidence.

The State refers Defendant to documents included in the State's February 1, 3, and 8 document production and subsequent updates produced pursuant to the Court's January 5, 2007 Order (Dkt. 1016). See attached index.

INTERROGATORY NO. 12: Separately for each Cargill entity at issue, state completely and in detail the facts upon which you base the allegation contained in ¶ 95 of Your Amended Complaint that "[a]n imminent and substantial endangerment to health or the environmental may be presented and is in fact presented as a direct and proximate result of [any Cargill entity's] respective contribution to the handling, storage, treatment, transportation or disposal of poultry waste in the IRW and lands and waters therein" and identify every witness upon whom You will rely to establish each fact.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO.12:

The State hereby incorporates its previous objections and response to this Interrogatory as if stated fully herein. Pursuant to Rule 33(d), the following list of documents is representative of documents responsive to this request:

Avery, L. M., Killham, K., and Jones, D. L. (2005), Survival of E. Coli O157:H7 in Organic Wastes Destined for Land Application. *Journal of Applied Microbiology* 98(4): 814-22. **(see pages 814-815, 820-821).**

Coyne, M. S. and Blevins, R. L. (1995), Fecal Bacteria in Surface Runoff from Poultry-Manured Fields. *Animal Waste and the Land-Water Interface*. Boca Raton, Lewis Publishers: 77-87. **(see pages 77, 80, 82, 85-86).**

Crane, S.R., Westerman, P.W., and Overcash, M. R. (1980), Dieoff of Fecal Indicator Organisms Following Land Application of Poultry Manure. *Journal of Environmental Quality*, 9: 531-537. **(see pages 531, 537).**

Davis, J. V. and Bell, R. W. (1998), Water-Quality Assessment of the Ozark Plateaus Study Unit, Arkansas, Kansas, Missouri, and Oklahoma; Nutrients, Bacteria, Organic Carbon, and Suspended Sediment in Surface Water, 1993-95. United States Geological Survey 98-4164. 63 p. **(see pages 1, 5, 7, 10, 19, 37-38).**

Davis, R. K., Hamilton, S., and Van Brahana, J. (2005), Escherichia Coli Survival in Mantled Karst Springs and Streams, Northwest Arkansas Ozarks, U.S.A. *Journal of the American Water Resources Association* 41(6): 1279-1287 **(see pages 1279-1280, 1284-1286).**

Mawdsley, J. L., Bardgett, R. D., Merry, R. J., Pain, B. F., and Theodorou, M. K. (1995), Pathogens in Livestock Waste, Their Potential for Movement through Soil and Environmental Pollution. *Applied Soil Ecology : A Section of Agriculture, Ecosystems & Environment* 2(1): 1-15. **(see pages 1-12).**

Schlottmann, A. L. 2000. Reconnaissance of the Hydrology, Water Quality, and Sources of Bacterial and Nutrient Contamination in the Ozark Plateaus Aquifer System and Cave Springs Branch of Honey Creek, Delaware County, Oklahoma, March 1999-March 2000. Water-Resources Investigations Report 00-4210, available at http://pubs.usgs.gov/wri/wri004210/

USGS Prepared in Cooperation with the Arkansas Soil and Water Conservation Commission – Phosphorus and Nitrogen Concentrations and Loads at Illinois River South of Siloam Springs, Arkansas, 1997 – 1999. OSRC 2-10.

USGS National Water-Quality Assessment Program – Water-Quality Assessment of the Ozark Plateaus Study Unit, Arkansas, Kansas, Missouri, and Oklahoma – Nutrients, Bacteria, Organic Carbon, and Suspended Sediment in Surface Water, 1993-95 OSRC 2-11

USGS Preliminary Analysis of Phosphorus Concentrations and Fecal-Indicator Bacteria Counts at Selected Sites in the Illinois River Basin in Oklahoma, 1997-2001. OSRC Log 2-13

Coordinated Watershed and Restoration Protection Strategy for Oklahoma's Impaired Scenic Rivers (Per SB 972) 2002, 2004-2006 Update located at http://www.environment.ok.gov/.

Oklahoma's Beneficial Use Monitoring Program – Final Report 1998 OSRC Log 2-15

Oklahoma's Beneficial Use Monitoring Program – 1999 Final Report OSRC Log 2-16

Oklahoma's Beneficial Use Monitoring Program raw data given at the OWRB document production and located in the sliding filing cabinets.

Nelson, M, Cash, W, Trost, K, Purtle, J. (2005) Illinois River 2004 Pollutant Loads at Arkansas Highway 59 Bridge. Arkansas Water Resources Center MSC-325.

Nelson, M, Cash, W, Trost, K,Purtle, J. (2006) Illinois River 2005 Pollutant Loads at Arkansas Highway 59 Bridge Arkansas Water Resources Center MSC-332.

Oklahoma Department of Environmental Quality (1998 -2004), Water Quality Assessment Integrated Reports. http://www.deq.state.ok.us

Public Water Supply reports located on the SDWIS (Public Water Supply Reports) database are too numerous to list herein, however, the State refers you to the indexes given to you at the Oklahoma Department of Environmental Quality which list all the public water supplies in the Illinois River watershed. Furthermore, if you simply choose one of the four counties in the watershed on the SDWIDS search page you can pull up all the public water supplies and see all their reporting and violation data.

USGS Surface Water Data for the Illinois River Basin, Water Quantity and Quality parameters located at: http://ar.water.usgs.gov/sun/data-bin/get_data?control=multiple&group_nm=illinois

OWRB Water Quality Data Viewer, all stations in the Illinois River Watershed, including Lake Tenkiller, located at: http://www.owrb.ok.gov/maps/server/wims.php

Oklahoma Water Resources Board, U.S. Army Corps of Engineers and Oklahoma State University. 1996. Diagnostic and Feasibility Study on Tenkiller Lake, Oklahoma. Sponsored by USEPA. Available at http://www.owrb.ok.gov/studies/reports/reports.php.

Phosphorus Concentrations, Loads and Yields in the Illinois River Basin, Arkansas and Oklahoma, 1997-2001, p. 1, (http://pubs.usgs.gov/wri/wri034168/).

Phosphorus Concentrations, Loads and Yields in the Illinois River Basin, Arkansas and Oklahoma, 2000-2004, (http://pubs.usgs.gov/sir/2006/5175/).

See attached an index to all of the State's productions.

Food Protech, Bates Nos. STOK14522-14606, Box 7.

EML Data: 233292-259309, Bates Nos. STOK18541-18764.

EML Data: 225284-233290, Bates Nos. STOK18765-18984.

EML Data: 215478-225279, Bates Nos. STOK18985-19197.

EML Data: 153505-214398, Bates Nos. STOK19198-19414.

EML bacteria data (including chain of custody), Bates Nos. STOK24163-24218.

EML bacteria reports, Bates Nos. STOK24482-24493.

Biosep, Bates Nos. STOK20402-20438.

The State will supplement this Interrogatory as additional responsive information is identified, except the State will disclose information known or opinions held by expert consultants retained or employed in anticipation of litigation or preparation for trial upon which it intends to rely pursuant to the Court's Scheduling Order (Dkt. #1075).

INTERROGATORY NO. 13: Separately for each Cargill entity at issue, state with particularity the factual and legal basis for the allegation contained in Count 4 of Your Amended Complaint that the conduct and acts of any Cargill entity constitute a nuisance under Oklahoma law (including, but not limited to, an alleged violation of 27A Okla. Stat. § 2-6-105 or 2 Okla. Stat. § 2-18.1) and identify every witness upon whom You will rely to establish each fact.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 13:

The State incorporates its previous general and specific objections and responses, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege or work product protection. Further, the State objects to this Interrogatory to the extent that it seeks information known or opinions held by expert consultants retained or

specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B).

The State intends to demonstrate the conduct of the Cargill Defendants constitute a nuisance under Oklahoma law (including, but not limited to, an alleged violation of 27A Okla. Stat. § 2-6-105 or 2 Okla. Stat. § 2-18.1) through expert testimony that is based on (1) published treatises and peer reviewed articles on relevant and applicable subjects (discussed below), and (2) the evaluation of sampling and analysis data collected by the State and its consultants. The State will call expert witnesses at trial who will demonstrate that land application of the Defendant's wastes (i.e., the wastes of its growing operations and that of its contract growers) within the IRW releases contaminants contained in these wastes into the environment and rainfall: (1) washes off the constituents of these wastes and the land applied soils and they together run off of the area that was land applied and flow into IRW surface waters, and (2) discharge, seep and leach from the land applied soils into ground waters that flow into IRW surface waters. In particular, the State will demonstrate violations by:

(A) Showing that the soils and Karst geology that make up the IRW are particularly susceptible to surface water runoff and seepage and leaching into the groundwater. Additionally, the hydrogeological connection between and among the land surface, the ground waters and the surface waters within the IRW will demonstrate the "pathway" to and through surface and ground water that runs into the streams and rivers of the IRW and eventually into Lake Tenkiller;

(B) Showing that a chemical "finger print" is found all along this water pathway (from waste application sites to Lake Tenkiller) by analysis and comparison of the chemical attributes of the Defendants' waste, the soils on which those wastes are applied,

the groundwater, and surface waters leaving land applied locations, the water and sediments of the streams and rivers that collect runoff and ground waters, and the sediments of Lake Tenkiller;

(C) Conducting Lake Tenkiller core analysis and comparing with (i) other lakes and (ii) poultry and waste growth and production;

(D) Analyzing historical poultry waste contaminant concentration trends in the IRW surface waters (including Lake Tenkiller) and comparing with poultry production and waste volume in the IRW;

(E) Demonstrating poultry waste indicator chemicals and substances at locations that are co-incident with locations within the IRW that experience injury for which the State seeks damages and injunctive relief;

(F) Demonstrating that the density of poultry operations directly influences the concentrations of phosphorous in IRW streams and rivers and that the contributions of phosphorous from land application of poultry waste causes the injuries to IRW water quality and biota for which the State seeks damages and injunctive relief;

(G) Showing that poultry waste is the major contributor of nutrients in the IRW using a nutrient mass balance analysis;

(H) Showing that poultry waste is a major contributor of pollutants in the IRW by circumstantial evidence.

The State and its experts are still collecting data and performing analysis on the data which will be used in their opinions and reports. The State has produced documents addressed by the Court's January 5, 2007 Order associated with the State's sampling scheme and will continue these productions on a rolling basis. The expert opinions and reports that will show

these violations are still being completed and will be provided to the Defendants in accordance with the Court's Scheduling Order (Dkt. #1075).

The State has not yet determined which witness or witnesses it will use to prove these facts. To the extent that the State will prove that the Cargill Defendants have caused a nuisance through other direct evidence, it will supplement its response to disclose that other direct evidence.

The State refers Defendant to documents included in the State's February 1, 3, and 8, 2007 document production and subsequent updates produced pursuant to the Court's January 5, 2007 Order. See attached index. The State will supplement this Interrogatory as responsive information is identified, except the State will disclose information known or opinions held by expert consultants retained or employed in anticipation of litigation or preparation for trial upon which it intends to rely pursuant to the Court's Scheduling Order (Dkt. #1075).

INTERROGATORY NO. 14: Separately for each Cargill entity at issue, state completely and in detail the facts upon which you base the allegation contained in Count 5 of Your Amended Complaint that the conduct and acts of any Cargill entity constitutes a nuisance under federal law and identify every witness upon whom You will rely to establish each fact.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO.14:

The State incorporates its previous response and objections to this Interrogatory as if fully stated herein. The State hereby incorporates its supplemental response to Interrogatory No.13 as if stated fully herein. The State will supplement this Interrogatory as responsive information is identified.

INTERROGATORY NO. 15: Separately for each Cargill entity at issue, state with particularity the factual and legal basis for the allegation contained in ¶¶ 100, 112, 113, 115 of

Your Amended Complaint that any Cargill entity has caused and is causing "unreasonable and substantial danger to the public's health and safety" in the Illinois River Watershed and identify every witness upon whom You will rely to establish each fact.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO.15:

The State incorporates its previous response and objections to this Interrogatory as if fully stated herein. Pursuant to Rule 33(d) the following representative documents are responsive to this request:

USGS Prepared in Cooperation with the Arkansas Soil and Water Conservation Commission – Phosphorus and Nitrogen Concentrations and Loads at Illinois River South of Siloam Springs, Arkansas, 1997 – 1999. OSRC 2-10

USGS National Water-Quality Assessment Program – Water-Quality Assessment of the Ozark Plateaus Study Unit, Arkansas, Kansas, Missouri, and Oklahoma – Nutrients, Bacteria, Organic Carbon, and Suspended Sediment in Surface Water, 1993-95 OSRC 2-11

USGS Preliminary Analysis of Phosphorus Concentrations and Fecal-Indicator Bacteria Counts at Selected Sites in the Illinois River Basin in Oklahoma, 1997-2001. OSRC Log 2-13

Coordinated Watershed and Restoration Protection Strategy for Oklahoma's Impaired Scenic Rivers (Per SB 972) 2002, 2004-2006 Update located at: http://www.environment.ok.gov/.

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Oklahoma Department of Environmental Quality which list all the public water supplies in the Illinois River watershed. Furthermore, if you simply choose one of the four counties in the watershed on the SDWIDS search page you can pull up all the public water supplies and see all their reporting and violation data.

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OWRB Water Quality Data Viewer, all stations in the Illinois River Watershed, including Lake Tenkiller, located at: http://www.owrb.ok.gov/maps/server/wims.php

Oklahoma Department of Environmental Quality Fact Sheet, "Water, Swimming in Oklahoma's Lakes, Rivers, and Streams" located at: http://www.deq.state.ok.us/factsheets/water/swimming.pdf

See attached the States Index of its Court Ordered production.

See attached an index to all of the State's productions.

Food Protech, Bates Nos. STOK14522-14606, Box 7.

EML Data: 233292-259309, Bates Nos. STOK18541-18764.

EML Data: 225284-233290, Bates Nos. STOK18765-18984.

EML Data: 215478-225279, Bates Nos. STOK18985-19197.

EML Data: 153505-214398, Bates Nos. STOK19198-19414.

EML bacteria data (including chain of custody), Bates Nos. STOK24163-24218.

EML bacteria reports, Bates Nos. STOK24482-24493.

Biosep, Bates Nos. STOK20402-20438

The State will supplement this Interrogatory as additional responsive information is identified, except the State will disclose information known or opinions held by expert consultants retained or employed in anticipation of litigation or preparation for trial upon which it intends to rely pursuant to the Court's Scheduling Order (Dkt. #1075).

INTERROGATORY NO. 16: Separately for each Cargill entity at issue, state with particularity the factual and legal basis for the allegation contained in Count 6 of Your Amended

Complaint that any Cargill entity has committed trespass under applicable state law and identify every witness upon whom You will rely to establish each fact.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 16:

The State incorporates its previous response and objections to this Interrogatory as if fully stated herein. The State hereby withdraws its previous Rule 33(d) designation for this Interrogatory. The State will supplement this Interrogatory as responsive information is identified, except that the State will produce expert reports pursuant to the Court's Scheduling Order (Dkt # 1075).

Respectfully Submitted,

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Attorneys for the State of Oklahoma

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of June, 2007, I electronically transmitted the attached document to the following:

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I hereby certify that on this 1st day of June, 2007, I served the foregoing document by U.S. Postal Service on the following:

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Sidley Austin Brown & Wood LLP
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C Miles Tolbert
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State of Oklahoma
3800 NORTH CLASSEN
OKLAHOMA CITY, OK 73118

Robert A. Nance
Robert A. Nance

VERIFICATION

STATE OF OKLAHOMA)
) ss:
COUNTY OF OKLAHOMA)

I, Miles Tolbert, being of legal age, hereby depose and state that I have read the foregoing supplemental responses to these interrogatories and that they are true and correct, to the best of my knowledge and belief, and that I furnish such supplemental responses based on consultation with the representatives of the State of Oklahoma based on documents identified as of the date of this response.

Miles Tolbert
Secretary of the Environment
State of Oklahoma

Signed and subscribed to before me on this 1st day of ~~May~~ June 2007

Notary Public

My Commission Expires:
11/09/10
My Commission Number:
02017963

JOYCE K. BOYD NOTARY # 02017963 XP. 11/09/10 PUBLIC OF OKLAHOMA